

§216.212

50 CFR Ch. II (10–1–12 Edition)

§216.212 Effective dates.

Regulations in this subpart are effective from July 21, 2008 until July 19, 2013.

§216.213 Permissible methods of taking.

The Holder of a Letter of Authorization issued pursuant to §216.218, may incidentally, but not intentionally, take marine mammals by harassment within the area described in §216.211(a), provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate Letter of Authorization.

§216.214 Prohibitions.

No person in connection with the activities described in §216.211(a) shall:

(a) Take any marine mammal not specified in §216.211(b);

(b) Take any marine mammal specified in §216.211(b) in a manner or amount greater than described therein;

(c) Take any marine mammal specified in §216.211(b) if NMFS determines that the taking of marine mammals incidental to the activities described in §216.211(a) is having more than a negligible impact on the species or stocks of marine mammals;

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued pursuant to §§216.106 and 216.218;

(e) Take any marine mammal in violation of these regulations by using a charge with a weight greater than 500 lbs (227 kg);

(f) Take any marine mammal when conditions preclude conducting mitigation and monitoring requirements of these regulations or a Letter of Authorization.

§216.215 Definitions, terms, and criteria

(a) *Definitions.* (1) *Below-mud-line or BML* means that the explosives are detonated below the water-mud interface, either inside or outside a pipe, other structure or cable.

(2) *Above-mud-line or AML* means that the explosives are detonated in the water column above the water-mud interface, either inside or outside a pipe, other structure or cable.

(3) *Multiple charge detonation* means any explosive configuration where more than one charge is required in a single detonation event.

(4) *Scenario* means an alpha-numeric designation provided to describe charge size, activity location, and target design employed in order to determine the appropriate marine mammal mitigation/monitoring measures.

(b) *Terms* (1) *Impact zone (required for all scenarios)* means the area around a decommissioning target measured by the horizontal radius, in which a marine mammal could be affected by the pressure or acoustic energy released during the detonation of an explosive-severance charge.

(2) *Predetonation survey (required for all scenarios)* means any marine mammal monitoring survey (e.g., surface, aerial, or acoustic) conducted prior to the detonation of any explosive severance tool.

(3) *Postdetonation survey (required for all scenarios)* means any marine mammal monitoring survey (e.g., surface, aerial, or post-post-detonation aerial) conducted after the detonation event occurs.

(4) *Waiting period (required for all scenarios)* means the amount of time detonation operations must hold before the requisite monitoring survey(s) can be repeated.

(5) *Company observer (for scenarios A1–A4 only)* means trained company observers authorized to perform marine mammal detection surveys only for “very-small” blasting scenarios A1–A4.

(6) *NMFS observer (for scenarios B1–E4)* means observers trained and approved by an instructor with experience as a NMFS Platform Removal Observer Program trainer. NMFS observers are required to perform marine mammal detection surveys for all detonation scenarios with the exception of scenarios A1–A4. Two NMFS observers will be assigned to each operation for detection survey duties, except mitigation-scenarios C2, C4, D2, D4, E2, and E4 require a minimum of three NMFS observers for the simultaneous surface, aerial, and acoustic surveys.

(c) *Criteria*—(1) *Blasting category parameters and associated severance scenarios.* To determine the appropriate